

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-0313V

Filed: October 13, 2011

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DEBORAH PISCIONE and DINO
PISCIONE, parents of DOMINICK
PISCIONE, a minor,

* UNPUBLISHED
*
* Attorneys' Fees and Costs
*

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

Ronald Homer, Boston, MA, for petitioner.

Chrysovalantis Kefalas, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On May 18, 2009, Deborah and Dino Piscione ("petitioners"), filed a petition for compensation on behalf of their son Dominick, a minor child, alleging that he suffered certain injuries as a result of receiving a vaccination. Petitioners allege that Dominick suffered a vaccine-related injury diagnosed as epilepsy as a result of the DTaP, MMR, and varicella vaccinations administered on May 19, 2006. Petitioners sought an award under

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

the National Vaccine Injury Compensation Program² (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On April 6, 2011, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation. Based on the reasonableness of the stipulation, the undersigned issued a decision awarding compensation on April 8, 2011.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). On September 28, 2011, petitioners filed their initial application for attorneys' fees and costs. Subsequently, respondent contacted petitioners regarding respondent's objections to the fee application. On October 13, 2011, petitioner filed an amended unopposed motion for attorneys' fees and costs indicating that respondent's counsel did not object to an award of \$43,850.00 in attorneys' fees and costs. Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** the parties' joint stipulation regarding attorneys' fees and costs.

The undersigned awards a total of \$43,850.00 in attorneys' fees and costs. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGEMENT** in petitioners' favor in the amount of \$43,850.00 in attorneys' fees and attorneys' costs.³ The judgment shall reflect that the Conway, Homer, Chin-Caplan firm may collect \$39,984.73 from petitioners, Jonathon S. Rochkind, Esquire, may collect \$3,575.00 from petitioners and petitioners may retain \$290.27 for out-of-pocket expenses.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.